

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

D. RICKY RICHARDSON,)
Petitioner,)
v.) Civil Action No. 04CV40099EFH
DEPARTMENT OF JUSTICE)
BUREAU OF PRISONS,)
HARLEY LAPPEN, DIRECTOR,)
and)
DAVID L. WINN, WARDEN,)
Respondents.)

RESPONDENTS' MOTION TO DISMISS PETITION
PURSUANT TO FED. R. CIV. P. 12(b)

Respondents, the Department of Justice Federal Bureau of Prisons (“BOP”), Harley Lappen, Director of the Federal Medical Center, Devens, Massachusetts, (“FMC Devens”), and David L. Winn, Warden of FMC Devens (collectively “Respondents”), hereby move to dismiss D. Ricky Richardson’s Petition in its entirety pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) for failure to exhaust administrative remedies, failure to adequately allege justiciable claims, and lack of subject matter jurisdiction.

Respectfully submitted,

RESPONDENTS

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS,

HARLEY LAPPEN, DIRECTOR,
and

DAVID L. WINN, WARDEN

By their attorney,

MICHAEL J. SULLIVAN
United States Attorney

/s/ Gina Y. Walcott-Torres

By: Gina Y. Walcott-Torres
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

Dated: July 29, 2004

CERTIFICATE OF SERVICE

This is to certify that I have this 29th day of July 2004, served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

D. Ricky Richardson (#17761-038), *pro se*, P.O. Box 879, Ayer, MA 01432

/s/ Gina Y. Walcott-Torres
Gina Y. Walcott-Torres
Assistant United States Attorney

REQUEST FOR WAIVER OF LOCAL RULE 7.1(A)(2) CERTIFICATION

The undersigned counsel hereby requests a waiver of the requirements of Local Rule 7.1(A)(2). As reasons therefore, she asserts that the plaintiff, who is acting *pro se*, is incarcerated at the Federal Medical Center in Devens, Massachusetts.

/s/ Gina Y. Walcott-Torres
Gina Y. Walcott-Torres
Assistant United States Attorney